IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1098 OF 2007

Smt.Shevanti G.Khedekar .. Petitioner.
Vs.
M/s.Crompton Greaves Ltd. & Anr. .. Respondents.

Mr.R.D.Bhat for the petitioner.
Mr.R.V.Paranjpe for respondent no.1.
Ms.Anjali P.Purav for respondent no.2.

CORAM : D.B.BHOSALE, J.
DATED : 17TH SEPTEMBER, 2007.

P.C.:

. Heard learned counsel for the parties.

2. This petition is directed against the judgment and order dated 17th August, 2006 passed by the 12th Labour Court, Mumbai deciding a preliminary issue as to whether an application under section 33-C(2) of the Industrial Disputes Act, 1947 filed by the petitioner is maintainable before the Labour Court in the negative. It appears that respondent No.1, Crompton Greaves Ltd., raised the issue as to the jurisdiction of the Labour Court on the ground that the members of the petitioner-union were never their workmen and, therefore, unless an issue of relationship of employer and employee between respondent no.1 and the workmen is adjudicated the

petitioner cannot maintain the application under section 33-C(2) of the Industrial Disputes Act.

3. Mr.Bhat, learned counsel for the petitioner-workmen, at the outset, submits that he has instructions to give up the claim/contention that the workmen are the employees of respondent no.1. He, on behalf of the employees, admits that they were working for respondent no.1 as the employees of respondent no.2 - Contractor. He, however, submits that under the provisions of the Contract Labour (Regulation and Abolition) Act, 970 they are entitled to claim an amount due to the workmen concerned from respondent no.2 and if respondent no.2 fail to pay, from respondent no.1 being the principal. He, therefore, submits that the judgment impugned may be set aside and directions be given to the Labour Court to decide their application under section 33-C(2) on merits. Learned counsel for the respondents also has not opposed the prayer in view of a categoric statement of the learned counsel for the petitioner that the concerned workmen are not the employees of respondent no.1. In the circumstances, I do not wish to enter into an issue as to whether the workmen are entitle for the dues and as to who is liable to pay. Learned counsel appearing for the parties fairly stated that I need not record the reasons for setting

aside the impugned judgment and they have agreed for the following order:

. The impugned judgment is set aside. The application (IDA) No.506 of 2001 stands restored to file. In view of the statement made by the learned counsel for the petitioner, it is declared that there is no relationship between the workmen and respondent no.1 as employee and employer. The Labour Court shall decide the application under section 33-C(2) of the Industrial Disputes Act, 1947 afresh on merits in accordance with law. All contentions are kept open. The Labour Court shall decide the matter as expeditiously as possible and preferrably within a period of eight months from the date of receipt of this order. While passing this order I shall not be understood to have expressed any opinion on the merits of the case and the Labour Court shall decide the application without being influenced by this order. The petition is disposed of.

(D.B.BHOSALE, J.)